

## The Sirius - XM Merger Revisited

Posted by Brian K. Hoover July 01, 2008 02:00AM

Categories: Sirius Satellite Radio

Seven months ago, I wrote a blog entry on the Sirius - XM merger. At the time, the companies had been waiting over nine months for an answer from the U.S. Government as to whether or not they would be allowed to merge.

Here we are... now seven additional months later and while the Department of Justice has given their stamp of approval to the merger, the FCC continues to drag their feet. Maybe they'll reach a decision soon?

I don't know about you, but I sure am not going to hold my breath!

Practically every day I read about different groups that meet with the FCC in order to try to express why they feel the FCC should block the merger or what concessions they should be forced to accept in order for the merger to go through. Sirius and XM have also met with the FCC commissioner and have agreed to some concessions, but these concessions aren't enough for some groups. It's almost comical to read about these groups and their demands - which always seem to benefit them... not subscribers or stockholders, but at the same time, it's downright embarrassing when you see how some groups such as the National Association of Broadcasters (or NAB) are able to toss money around and have U.S. Senators suddenly see their point of view... but more on that in a bit.

One point that I continue to read about is that Sirius and XM can't be trusted because they were supposed to be working on receivers which could pick up the signals for either service. Right now, you need a Sirius receiver to pick up the Sirius service and you need an XM receiver to pick up the XM service because the companies use different compression methods to squeeze their many different channels into their allotted bandwidth. Because of these different compression methods, the radios are not interoperable.

There is a group called the Consumer Coalition for Competition in Satellite Radio that is intent on having the FCC rule against the merger because the companies have not yet developed an interoperable radio. It turns out that this group receives financial support from the NAB. The NAB, by the way, is probably the group that is most vehemently against the Sirius-XM merger, although they claim that satellite radio is not a form of competition for them. (I still think that their actions in order to prevent the merger speak volumes.)

I don't see why anyone, let alone a group supposedly acting on behalf of consumers, would care about the companies making an interoperable receiver before they are allowed to merge. Up until now, if you want the content that Sirius offers, you would buy a Sirius receiver, but if you wanted XM's

content, you would buy an XM receiver. It's kind of like the whole MAC/PC argument. You know the commercials... "Hi. I'm a MAC!" People make a decision concerning which type of computer they want to buy the same way that people choose Sirius or XM.

OK. So maybe you don't like that analogy. Well, how about cell phones. Why is it that it's perfectly alright for each cell phone provider to sell you phones that can only be used on their network? If you have an AT&T phone, take it to a Verizon Wireless store and see if you can get it activated. You can't!!

If this consumer group and senators (who are probably receiving huge donations from the NAB) want to insist that Sirius and XM should have been developing compatible receivers all along, I think they should force cell phone providers to only sell phones that can be used with any provider! (And from what I understand, this is the way it is in Europe.)

Speaking of senators, I read an article today about how a group of senators, including John Kerry (remember him?) came out against the merger. In the article, the following quote is attributed to the group of Senators:

"The proposed conditions fail to provide meaningful competition in the SDARS marketplace and would leave the merged entity in a position to exercise its market power in anti-competitive ways against other media, including free, over-the-air radio."

First of all, the Department of Justice already ruled that the merger is not anti-competitive, so why does that word continue to come up?

Secondly, how can the merged satellite company "exercise its market power" against over-the-air radio when the merged company would have under 20 million subscribers while the current US population stands at over 304 million people. That means that less than 10% of the US population subscribes to satellite radio and the vast majority is free to enjoy regular over-the-air radio. I just don't understand why anyone is concerned about satellite radio being such a huge threat to over-the-air radio.

The other statement in this article is that this group of senators wants the combined Sirius-XM company to include an HD-radio receiver in each and every satellite receiver. Now... let's think about this for a second.

I've written about HD-radio before, but in case you are not familiar with it, the HD does NOT stand for "High Definition" radio as broadcasters would want you to believe. Yes, it's digital radio and it sounds better than your regular radio stations, but it's not like listening to Dolby Digital 5.1 Surround Sound in

a home theater system.

Anyhow, in order to pick up HD radio signals, you need a special radio receiver. They haven't exactly been selling like wildfire, so the NAB (also the group behind HD radio) has been pushing for the FCC to require the combined Sirius-XM company to include HD receivers in their satellite receivers.

You see, however... the thing is, most satellite radio subscribers listen to their receivers through a regular radio. Most satellite radio receivers have a built-in FM transmitter which allows you to tune your regular old radio to a particular frequency and listen to the satellite service. If they build an HD tuner into every satellite receiver, what would be the point since you wouldn't be able to take advantage of the improved audio quality? Sure, you'd be able to pick up additional stations, but you're eliminating the key advantage of HD-radio by playing it through a regular old analog radio!

In the end, the only reason these companies shouldn't be allowed to merge is because there was a clause which forbid them from ever merging when they received their operating licenses. I think that times have changed since then, however, and the FCC should be able to override that agreement. Other than that, there is no reason why these two companies shouldn't be allowed to merge - no matter how much the NAB is against it or no matter how many senators they sway to their point of view.

There are many, many other more important things that our senators should be worrying about these days such as closing the "Enron loophole" and the war in Iraq.

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